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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,941	02/20/2004	Jeffrey Hemingway	3924-0182	4786
7590 06/06/2005			EXAMINER	
John C. Hilton McCormick, Paulding & Huber, LLP 185 Asylum Street, City Place II Hartford, CT 06103			PATEL, DHIRUBHAI R	
			ART UNIT	PAPER NUMBER
			2831	

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,941

Applicant(s)

HEMINGWAY, JEFFREY

Examiner

DHIRU R. PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-8 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Rubinstein (3,676,571) in view of Rose (6,252,167).

Rubinstein discloses:

Regarding claim 1, a device comprising: a housing (see figs 1-2), means 62 for securing the housing to the conduit (armor of the cable 60, see fig2, column 3 lines 16-23, column 4 lines 15-21), said housing being of generally rectangular housing shape and having a rearwall 26 defining an opening 34' communicating with the interior of the conduit (see fig 2), and clamping means 62' (near the upper end of the back wall 50, see fig 2) provided in a side of said housing opposite the conduit (see fig 2), said clamping means defining a slot (a slot for cable 60, see fig 2) for the wire passing through the conduit (see fig 2) said clamping means serving to minimize the cross sectional area occupied by the wires at the said side of said housing opposite the through conduit (see fig 2), but fails to disclose intumescent material provided in said rectangular housing. Rose teaches the use of intumescent material

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30 inside the electrical box (see column 2 lines 20-40, column 3 lines 55-60) in order to suppress a fire within the electrical box (see column 1 lines 5-8), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the box of the assembly of Rubinstein with an intumescent material provided in said rectangular housing as taught by Rose in order to suppress a fire within the electrical box. Regarding claim 2, the modified assembly of Rubinstein shows all of the claimed invention as shown above, including said clamping means defines an elongated slot (see fig 2 of Rubinstein). It is noted that the modified assembly of Rubinstein meets the structural limitations.

Regarding claim 3, the modified assembly of Rubinstein shows all of the claimed invention as shown above, including said housing being made from a metal material (see column 1 lines 68-69 of Rubinstein).

Regarding claim 4, the modified assembly of Rubinstein shows all of the claimed invention as shown above, including said housing is formed integrally with said means securing said housing to said conduit (see figs 1-2).

Regarding claims 5, 7-8, the modified assembly of Rubinstein shows all of the claimed invention as shown above, including said means comprises a plate having a conduit opening to receive said conduit (see fig 2), said plate having bent tabs (see fig 2), with a fastener 64. With respect to fasteners, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of fasteners, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. With respect to claims 7-8, it is

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noted that the modified assembly of Rubinstein meet the structural limitations, and see entire column 4 of Rose.

Regarding claim 6, the modified assembly of Rubinstein shows all of the claimed invention as show above, including the box is made from a metal, but fails to disclose said clamping is fabricated from a metal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the box of the assembly of Rubinstein being made from a metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Add case low.

Conclusion

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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3. Response to Arguments

Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Contact information

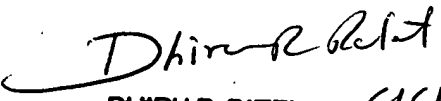
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dhiru Patel whose telephone number is 571-272-1983. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Dhiru Patel
Primary Examiner
Group Art Unit 2831
June 6, 2005


DHIRU R. PATEL 6/6/05
PRIMARY EXAMINER